

Municipality of Cumberland Policy 17-01

Divestiture of Surplus Real Property Policy

Citation

1. This Policy is entitled the “Divestiture of Surplus Real Property Policy.”

Purpose

2. The purpose of this Policy is to provide for the divestiture of surplus real property owned by the Municipality in compliance with the principles of good municipal governance and in particular with the requirements of the Municipal Government Act. In the event of any conflict between this Policy and any Provincial legislation, the latter shall prevail.

Definitions

3. In this Policy, unless the context otherwise requires:
 - a. “Divestiture Committee” or “Committee” means the Divestiture of Surplus Real Property Committee;
 - b. “Local Councillor” means the Councillor of the District where the property in question is located;
 - c. “Municipal Department” means the Municipality’s Departments of Engineering and Operations, Community Development, Administration, and Finance;
 - d. “Municipality” means the Municipality of the County of Cumberland;
 - e. “nonprofit organization” means a registered non-profit or charitable organization; and
 - f. “surplus” means real property owned by the Municipality that is not required for present or anticipated future needs.

Divestiture Committee

4. Council shall appoint a Divestiture of Surplus Property Committee, which shall exercise the Mandate approved by Council for the Committee.
5. The Committee shall be supported by Municipal staff as deemed appropriate by the CAO.
6. The Committee shall assess whether real property owned by the Municipality should be declared surplus, and if so, will recommend to Municipal Council that the property be declared surplus. Before making its assessment, the Committee shall consult with each Municipal Department and the Local Councillor to obtain their input regarding whether each property is or may be required for current or future needs of the Municipality.

7. If Council declares a property to be surplus, the Committee is authorized to divest the property and to select and direct the divestiture process, subject to the provisions of this Policy. The Committee shall report the results to Council.
8. Every divestiture process selected and directed by the Committee shall comply with sections 50, 51, 51A and 273 of the Municipal Government Act, and if the property is offered for sale to the public, the process must be designed to ensure that the public is made as aware of the sale as is reasonably possible.

Property Acquired Pursuant to the Subdivision By-Law

9. Where property recommended by the Committee to be declared surplus was transferred to the Municipality pursuant to the Municipality's Subdivision By-Law for parks, playgrounds and similar public purposes as authorized by section 271(3) (h) of the Municipal Government Act, the owners of the lots in the subdivision in respect of which the land was conveyed shall be notified by letter addressed to the owners as shown on the current assessment role and by notice in a local newspaper fourteen (14) days before the meeting when Council will consider declaring the property surplus.
10. As required by section 273(13) of the Municipal Government Act, where property described in the preceding section is sold, the proceeds shall be used for capital expenditures for parks, playgrounds and similar public purposes. It shall be the Policy of the Municipality to use such proceeds within the District of the Municipality where the surplus property is located.

Conveyance of Property to Nonprofit Organizations

11. If the Committee is of the opinion that a property should be sold or leased at a price less than market value to a nonprofit organization carrying on activity that is beneficial to the Municipality, it shall make that recommendation to Council. When considering whether to accept such a recommendation, Council must comply with subsections (2) and (3) of section 51 of the Municipal Government Act regarding a two thirds majority and, if the property is valued at more than \$10,000, a public hearing.

Sale to Abutting Owner

12. If the Committee is of the opinion that a property should be sold to the owner or owners of land abutting that property because it is of insufficient size or dimensions to be capable of any reasonable use, it shall make that recommendation to Council, and if Council is also of the opinion the property is incapable of reasonable use, it may decide, pursuant to section 51A of the Municipal Government Act, that the property shall be sold upon such terms as it sees fit, including sale at less than market value.

General

13. Where the transfer of a property would trigger the requirements of the Land Registration Act to "migrate" the title of the property to the current land registry system, the Municipality shall complete that process before the property is offered for sale. If, during that process, it is discovered that the costs of the title migration will significantly exceed the expected sale price, the Committee or Council may decide to delay or abandon that sale.

14. The following persons shall not purchase surplus property of the Municipality either directly or through an agent:
- (a) a Council member;
 - (b) an employee of the Municipality;
 - (c) the spouse of a person referred to in subsections (a) or (b); or
 - (d) a company in which a person referred to in subsections (a), (b) or (c) owns or beneficially owns the majority of the issued and outstanding shares.
15. Policy 15-10, the “Divestiture of Surplus Property Policy”, adopted October 21, 2015, is hereby repealed.
16. This Policy comes into force upon adoption.

<u>Clerk’s Annotation for Official Policy Book</u>	
Date of Notice to Council Members of Intent to consider (7 days minimum): <u>December 7, 2016</u>	
Date of Passage of Current Policy: <u>January 18, 2017,</u>	
I certify that this Policy was adopted by Council as indicated above.	
<u>Brenda Moor</u> Municipal Clerk	<u>April 27, 2017</u> Date